

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

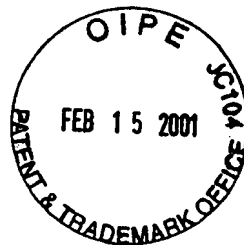
In re Application of : Maa, Shalong

Application No.: 08/833,342

Art Unit: 3721 / 3713

Filing Date: April 4, 1997

For: Computer-Controlled Talking Figure Toy with Animated Features



RECEIVED
FEB 22 2001
TC 3700 MAIL ROOM

Group Director (Patent Examining Group)
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED

FEB 16 2001

OFFICE OF PETITIONS

Dear Director:

PETITION TO INVOKE SUPERVISORY OF THE COMMISSIONER FOR PROPER
ADVANCEMENT OF PROSECUTION UNDER 37 C.F.R. § 1.181

1. This is the undersigned Applicant's third petition, under 37 C.F.R. § 1.181, to invoke the supervisory authority of the commissioner in the *ex parte* prosecution of the above-identified patent application, so as to advance the prosecution / Appeal proceedings in due course without further delay. The present petition is taken to the commissioner from the Examiner's delaying of the Appeal proceeding. In particular, the EXAMINER'S ANSWER, dated 12/28/2000 (EXHIBIT C), in answer to the undersigned Applicant / Appellant's APPEAL BRIEF, was more than six (6) month after Applicant's filing of the original BRIEF on 06/06/2000 (EXHIBIT A). Applicant has submitted a similar petition on 01/31/2001, which was to be presented before the Board of Patent Appeals and Interferences ("BOARD"). However, as Applicant noticed lately that, the Application file has not been transferred to the BOARD.

2. Applicant's previous petition under 37 C.F.R. § 1.181, submitted on 06/13/2000, was also taken, in part, from the Examiner's delaying of the examination proceedings. Said previous petition was denied by the Group Director, as so stated in the Group Director's DECISION ON PETITION dated 08/28/2000.

I. SUMMARY OF THE APPLICATION PROCEEDINGS

3. The present application has been pending for more than 45 months since April, 1997. Before the Appeal proceeding, Applicant has received, from the Office, four (4) Office Actions, dated, respectively,

04/30/1998, 11/10/1998, 08/02/1999, and 05/15/2000, in which all Claims in the application were rejected in all four Office Actions.

4. The current prosecution is a Continued Prosecution Application (CPA) of the original application filed on April 4, 1997, with the CPA Request Form thereof submitted on 05/10/1999 via facsimile. Thereafter, a substitute Specification, including 26 new Claims, renumbered as Claims 35-60, in replacement of the original specification and claims, were submitted via facsimile on 07/04/1999, and were "entered on 7/2/99 as Paper No. 13", as so stated in the Office Action of 08/02/1999.

5. Applicant's two previous petitions under 37 C.F.R. § 1.181 were submitted on 10/27/1999 and 06/13/2000 respectively. A request for Revocation of Power of Attorney was "entered 6/11/99 as Paper No. 8", as so stated in the Office Action of 08/02/1999. Accordingly, the undersigned Appellant/Applicant is prosecuting the Application *pro se*.

6. Applicant's original and complete APPEAL BRIEF, in response to the Final Office Action dated 05/15/2000, together with the NOTICE OF APPEAL Form and the required fees, including all required elements for the BRIEF, were submitted on 06/06/2000 (EXHIBIT A). In response thereto were Examiner's "Notification of Non-Compliance with 37 C.F.R. § 1.192(c)" dated 07/26/2000 (EXHIBIT B). The amended Brief in response thereto were submitted on 08/26/2000. The EXAMINER'S ANSWER thereto were sent to the Appellant on 12/28/2000 (EXHIBIT C).

RECEIVED

FEB 16 2001

II. STATEMENT OF FACTS / POINTS TO BE REVIEWED

OFFICE OF PETITIONS

7. According to M.P.E.P. § 1208: "The examiner should furnish the appellant with a written statement in answer to the appellant's brief within 2 months after the receipt of the brief by the examiner". However, as described above, the EXAMINER'S ANSWER was not sent to the Appellant until 12/28/2000, which was more than six (6) months after Appellant's original APPEAL BRIEF filed on 06/06/2000 (EXHIBIT A,C), after Applicant's repeated requests via written and telephone communications.

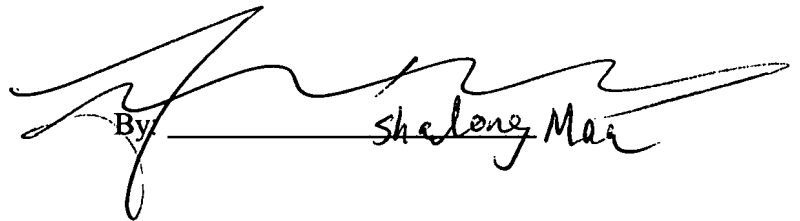
8. Examiners' "Notification of Non-Compliance with 37 C.F.R. § 1.192(c)" dated 07/26/2000 recites 37 C.F.R. § 1.192(c)(9) with respect to appending correct copy of amended Claims in the Brief as ground thereof (EXHIBIT B). Appellant respectfully submits that, such "Notification of Non-Compliance" does not comply with the respective procedures described in M.P.E.P. § 1206, which states that "The brief of a pro se appellant which does not contain all of the items, (1) to (9), specified in 37 CFR 1.192c will be accepted as long as it substantially complies with the requirements of items (1), (2), and (8)." Furthermore, Appellant's communication of 06/06/2000 did include a correct copy of the amended Claims (EXHIBIT A).

9. Applicant respectfully submits that, Applicant has been looking forward to having the jurisdiction over the Application passed to the BOARD after receiving the Examiner's first Office Action dated 08/02/1999, in view of certain irregularities in the Office Action. Applicant's Response thereto was submitted on 10/27/1999. However, the case has not been presented before the BOARD more than fifteen (15) months thereafter because of the Examiner's repeated delays.

III. ACTION REQUESTED / CONCLUSION

10. For the foregoing reasons, Appellant respectfully requests that the Commissioner exercise the supervisory authority to review the above-described advancement of the prosecution / Appeal proceedings, and that the application file be promptly transferred to the BOARD without further delay.

Respectfully submitted,

By  Shalong Ma

Date: 02/11/2001

SMA International, Inc.
816 McDeavitt Dr., 1077
Arlington, TX 76011
(817) 795-3526

RECEIVED
FEB 16 2001
OFFICE OF PETITIONS